

**Robert P. Astorino
County Executive**

Office of the County Attorney

**Robert F. Meehan
County Attorney**

July 13, 2012

Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: *Kachalsky v. Cacace*
11-3642 (L); 11-3962 (XAP)

Dear Ms. Wolfe:

This letter is respectfully submitted in further response to the Court's request for "supplemental briefing from the parties concerning the impact, if any, of the June 1, 2012, decision of this Circuit in *United States v. Decastro*, 10-3773."

Upon review of *Decastro* and the Supplemental Letter Brief of the Plaintiffs-Appellants, dated June 29, 2012, the County reaffirms the position asserted in its previous submissions that Section 400.00(2)(f) of the Penal Law does not implicate the core Second Amendment right recognized in *Heller* and *McDonald* – the right of law abiding citizens to possess operable firearms in their homes. The County further reaffirms its alternative position that if Section 400.00(2)(f) of the Penal Law is within the ambit of the Second Amendment right recognized in *Heller*, it is nonetheless constitutional because it is substantially related to an important governmental interest in public safety. Finally, the County hereby adopts the arguments raised by the State Defendants in their Supplemental Letter Brief of today's date.

Very truly yours,

/s/ Thomas G. Gardiner (TGG 7305)

Thomas G. Gardiner
Sr. Assistant County Attorney

TGG/nn

